

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

EUGENE NELSON

Plaintiff,

V.

**WELLS FARGO BANK, NATIONAL
ASSOCIATION AS TRUSTEE FOR
MORGAN STANLEY CAPITAL I INC.
TRUST 206-HE01, MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES
2006-HE1**

Defendant.

Case No. 6:21-CV-338-JDK-KNM

ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Before the Court is Defendant's Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) (Docket No. 11). The motion was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On November 29, 2021, Judge Mitchell issued a Report and Recommendation (Docket No. 16), recommending that the motion be granted and that the complaint be dismissed without prejudice. The Report further recommends that Plaintiff be given an opportunity to cure the deficiencies and amend the complaint within 14 days. No written objections have been filed.


This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1)

(extending the time to file objections from ten to fourteen days). Here, the parties did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendations, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 16) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 16) is **ADOPTED** and that Defendant's Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) (Docket No. 11) is **GRANTED**. The complaint is **DISMISSED** without prejudice to the filing of an amended complaint within 14 days.

So **ORDERED** and **SIGNED** this **27th** day of **December, 2021**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE